



April 5, 2019

ENGROSSED

HOUSE BILL No. 1004

DIGEST OF HB 1004 (Updated April 3, 2019 9:12 pm - DI 110)

Citations Affected: IC 5-2; IC 10-21; IC 20-26; IC 20-30; IC 20-33; IC 20-34; IC 34-30.

Synopsis: School safety. Provides that the Indiana safe schools fund may not be used to provide grants to employ a school resource officer or a law enforcement officer. Provides that an Indiana secured school fund matching grant may be used to: (1) employ a law enforcement officer; or (2) provide school based mental health services to students. Provides that an accredited nonpublic school may receive a grant from the Indiana secured school fund (fund). Makes changes to the maximum grant amounts that a school corporation, charter school, accredited nonpublic school, or coalition of schools may receive from the fund. Provides that a virtual charter school or a virtual accredited nonpublic school may not receive a grant from the fund. Establishes minimum grant match percentages necessary to be eligible to receive a grant from the fund. Provides that, before July 1, 2021, each school corporation, charter school, or accredited nonpublic school shall certify
(Continued next page)

Effective: Upon passage; July 1, 2019.

McNamara, Cook, Mahan, Wright

(SENATE SPONSORS — RAATZ, CRIDER, MELTON)

January 7, 2019, read first time and referred to Committee on Veterans Affairs and Public Safety.

January 16, 2019, amended, reported — Do Pass.

January 24, 2019, read second time, amended, ordered engrossed.

January 25, 2019, engrossed.

January 28, 2019, read third time, passed. Yeas 96, nays 2.

SENATE ACTION

February 27, 2019, read first time and referred to Committee on Education and Career Development.

April 4, 2019, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

EH 1004—LS 6969/DI 116



to the department of homeland security that the school corporation, charter school, or accredited nonpublic school has conducted a threat assessment for each school building used by the school corporation, charter school, or accredited nonpublic school before applying for a grant from the fund. Requires that at least one of the manmade disaster drills that is required to be conducted by each school in a school corporation during each semester must be an active shooter drill and must be conducted within 90 days after the beginning of the semester. Provides that each: (1) accredited nonpublic school; and (2) charter school; must conduct at least one active shooter drill during each school year. Provides that a public school, including a charter school, or an accredited nonpublic school may not conduct or approve training or a drill for a school employee or student of the school that includes as any part of the training or drill the expelling of any type of projectile at a school employee or student of the school. Provides civil immunity to certain persons and entities regarding school safety plans. Establishes certain consent requirements regarding students. Provides that, if the attorney general determines that a school corporation or school: (1) discloses a student education record, or any information in a student education record, in violation of federal law; or (2) has a student participate in any medical health assessment or services, mental health assessment, mental health services, psychiatric or psychological examination or test, or psychiatric or psychological treatment without the informed written consent of the student's parent; the attorney general may assess a civil penalty against the school corporation or school. Provides that the parent of a student may bring a civil action for certain violations. Provides that the civil penalty and civil action provisions also apply to violations of other provisions concerning: (1) consent for mental health referrals; (2) health care consent; (3) disclosure of medical records; (4) mental health diagnoses or information; (4) requirements to make certain materials available for inspection; (5) requirements concerning human sexuality instruction; and (6) obtaining consent before requiring a student to participate in certain personal analyses, evaluations, or surveys. Provides that the civil immunity that currently applies to schools, school employees, or school boards for any referrals the school made or services the school offered concerning evaluations or treatment of the student's health only applies if, except in certain situations, the school, school employee, or school board received prior written consent from the student, if the student is an adult or an emancipated minor, or a parent of the student, if the student is an unemancipated minor. Requires each school corporation to enter into a memorandum of understanding with a community mental health center or certain mental health providers.



April 5, 2019

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1004

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-2-10.1-2, AS AMENDED BY P.L.25-2016,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 2. (a) The Indiana safe schools fund is
4 established to do the following:
5 (1) Promote school safety through the:
6 (A) use of dogs trained to detect drugs and illegal substances;
7 and
8 (B) purchase of other equipment and materials used to
9 enhance the safety of schools.
10 (2) Combat truancy.
11 (3) Provide matching grants to schools for school safe haven
12 programs.
13 (4) Provide grants for school safety and safety plans. **However,**
14 **a grant from the fund may not be used to employ a school**
15 **resource officer (as defined in IC 20-26-18.2-1) or a law**

EH 1004—LS 6969/DI 116



- 1 **enforcement officer (as defined in IC 35-31.5-2-185).**
 2 (5) Provide educational outreach and training to school personnel
 3 concerning:
 4 (A) the identification of;
 5 (B) the prevention of; and
 6 (C) intervention in;
 7 bullying.
 8 (6) Provide educational outreach to school personnel and training
 9 to school safety specialists and school resource officers
 10 concerning:
 11 (A) the identification of;
 12 (B) the prevention of; and
 13 (C) intervention in;
 14 criminal organization activities.
 15 (7) Provide grants for school wide programs to improve school
 16 climate and professional development and training for school
 17 personnel concerning:
 18 (A) alternatives to suspension and expulsion; and
 19 (B) evidence based practices that contribute to a positive
 20 school environment, including classroom management skills,
 21 positive behavioral intervention and support, restorative
 22 practices, and social emotional learning.
 23 (b) The fund consists of amounts deposited:
 24 (1) under IC 33-37-9-4; and
 25 (2) from any other public or private source.
 26 (c) The institute shall determine grant recipients from the fund with
 27 a priority on awarding grants in the following order:
 28 (1) A grant for a safety plan.
 29 (2) A safe haven grant requested under section 10 of this chapter.
 30 (3) A safe haven grant requested under section 7 of this chapter.
 31 (d) Upon recommendation of the council, the institute shall establish
 32 a method for determining the maximum amount a grant recipient may
 33 receive under this section.
 34 SECTION 2. IC 5-2-10.1-14 IS ADDED TO THE INDIANA CODE
 35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 36 1, 2019]: **Sec. 14. (a) As used in this section, "school" means the**
 37 **following:**
 38 **(1) A public school, including a charter school (as defined in**
 39 **IC 20-24-1-4).**
 40 **(2) An accredited nonpublic school.**
 41 **(b) As used in this section, "school corporation" has the**
 42 **meaning set forth in IC 20-18-2-16(a).**



1 (c) A school corporation and a school are immune from civil
 2 liability for any injury or loss that results from an act or omission
 3 in the design, development, or implementation of a safety plan, or
 4 any part of a safety plan, unless the act or omission constitutes
 5 gross negligence or willful, wanton, or intentional misconduct.

6 (d) A person or entity that is employed by, volunteers with, or
 7 contracts for services with a school corporation or school
 8 regarding the design, development, or implementation of a safety
 9 plan, or any part of a safety plan, is immune from civil liability for
 10 any injury or loss that results from an act or omission in the
 11 design, development, or implementation of the safety plan, or any
 12 part of the safety plan, unless the act or omission constitutes gross
 13 negligence or willful, wanton, or intentional misconduct.

14 SECTION 3. IC 10-21-1-0.5 IS ADDED TO THE INDIANA CODE
 15 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
 16 UPON PASSAGE]: **Sec. 0.5. This chapter does not apply to a virtual
 17 charter school or a virtual accredited nonpublic school.**

18 SECTION 4. IC 10-21-1-2, AS ADDED BY P.L.172-2013,
 19 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 UPON PASSAGE]: Sec. 2. (a) The Indiana secured school fund is
 21 established to provide matching grants to enable school corporations,
 22 ~~and~~ charter schools, **and accredited nonpublic schools** to establish
 23 programs under which a school corporation, ~~or~~ charter school, **or
 24 accredited nonpublic school** (or a coalition of schools) may:

25 (1) employ a school resource officer, **employ a law enforcement
 26 officer**, or enter into a contract or a memorandum of
 27 understanding with a:

28 (A) local law enforcement agency;

29 (B) private entity; or

30 (C) nonprofit corporation;

31 to employ a school resource officer **or a law enforcement
 32 officer**;

33 (2) conduct a threat assessment of the buildings within a school
 34 corporation or **the buildings that are** operated by a charter school
 35 **or accredited nonpublic school**; ~~or~~

36 (3) purchase equipment and technology to:

37 (A) restrict access to school property; or

38 (B) expedite notification of first responders; **or**

39 **(4) provide school based mental health services to students or
 40 form partnerships with mental health providers to provide
 41 school based mental health services to students.**

42 (b) The fund shall be administered by the department of homeland



- 1 security.
- 2 (c) The fund consists of:
- 3 (1) appropriations from the general assembly;
- 4 (2) grants from the Indiana safe schools fund established by
- 5 IC 5-2-10.1-2;
- 6 **(3) civil penalties assessed by the attorney general under**
- 7 **IC 20-33-13-8;**
- 8 ~~(3)~~ **(4)** federal grants; and
- 9 ~~(4)~~ **(5)** amounts deposited from any other public or private source.
- 10 (d) The expenses of administering the fund shall be paid from
- 11 money in the fund.
- 12 (e) The treasurer of state shall invest the money in the fund not
- 13 currently needed to meet the obligations of the fund in the same
- 14 manner as other public money may be invested. Interest that accrues
- 15 from these investments shall be deposited in the fund.
- 16 (f) Money in the fund at the end of a state fiscal year does not revert
- 17 to the state general fund.
- 18 SECTION 5. IC 10-21-1-3, AS ADDED BY P.L.172-2013,
- 19 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 20 UPON PASSAGE]: Sec. 3. (a) The secured school safety board is
- 21 established to approve or disapprove applications for matching grants
- 22 to fund programs described in section 2(a) of this chapter.
- 23 (b) The board consists of seven (7) members appointed as follows:
- 24 (1) The executive director of the department of homeland security
- 25 or the executive director's designee. The executive director of the
- 26 department of homeland security or the executive director's
- 27 designee serves as the chairperson of the board.
- 28 (2) The attorney general or the attorney general's designee.
- 29 (3) The superintendent of the state police department or the
- 30 superintendent's designee.
- 31 (4) A local law enforcement officer appointed by the governor.
- 32 (5) The state superintendent of public instruction or the
- 33 superintendent's designee.
- 34 (6) The director of the criminal justice institute or the director's
- 35 designee.
- 36 (7) An employee of a local school corporation or a charter school
- 37 appointed by the governor.
- 38 (c) The board shall establish criteria to be used in evaluating
- 39 applications for matching grants from the fund. These criteria must:
- 40 (1) be consistent with the fund's goals; and
- 41 (2) provide for an equitable distribution of grants to school
- 42 corporations, ~~and~~ charter schools, **and accredited nonpublic**



- 1 **schools** located throughout Indiana.
- 2 SECTION 6. IC 10-21-1-4, AS AMENDED BY P.L.30-2014,
- 3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]: Sec. 4. (a) The board may award a matching grant
- 5 to enable a school corporation, ~~or~~ charter school, **or accredited**
- 6 **nonpublic school** (or a coalition of schools applying jointly) to
- 7 establish a program to employ a school resource officer, **employ a law**
- 8 **enforcement officer**, provide school resource officer training
- 9 described in IC 20-26-18.2-1(b)(2), conduct a threat assessment,
- 10 **provide school based mental health services to students or form**
- 11 **partnerships with mental health providers to provide school based**
- 12 **mental health services to students**, or purchase equipment to restrict
- 13 access to the school or expedite the notification of first responders in
- 14 accordance with section 2(a) of this chapter.
- 15 (b) A matching grant awarded to a school corporation, ~~or~~ charter
- 16 school, **or accredited nonpublic school** (or a coalition of schools
- 17 applying jointly) may not exceed the lesser of the following during a
- 18 two (2) year period beginning on or after May 1, 2013:
- 19 (1) The total cost of the program established by the school
- 20 corporation, ~~or~~ charter school, **or accredited nonpublic school**
- 21 (or the coalition of schools applying jointly).
- 22 (2) **Except as provided in subsection (d)**, the following amounts:
- 23 (A) Fifty thousand dollars (\$50,000) per year, in the case of a
- 24 school corporation or charter school that:
- 25 (i) has an ADM of at least one thousand (1,000); and
- 26 (ii) is not applying jointly with any other school corporation
- 27 or charter school.
- 28 (B) Thirty-five thousand dollars (\$35,000) per year, in the case
- 29 of a school corporation or charter school that:
- 30 (i) has an ADM of less than one thousand (1,000); and
- 31 (ii) is not applying jointly with any other school corporation
- 32 or charter school.
- 33 (C) Fifty thousand dollars (\$50,000) per year, in the case of a
- 34 coalition of schools applying jointly.
- 35 (A) **Thirty-five thousand dollars (\$35,000) per year, in the**
- 36 **case of a school corporation, charter school, or accredited**
- 37 **nonpublic school that:**
- 38 (i) **has an ADM of at least one (1) and less than one**
- 39 **thousand one (1,001) students; and**
- 40 (ii) **is not applying jointly with any other school**
- 41 **corporation, charter school, or accredited nonpublic**
- 42 **school.**



- 1 **(B) Fifty thousand dollars (\$50,000) per year, in the case of**
 2 **a school corporation, charter school, or accredited**
 3 **nonpublic school that:**
 4 **(i) has an ADM of more than one thousand (1,000) and**
 5 **less than five thousand one (5,001) students; and**
 6 **(ii) is not applying jointly with any other school**
 7 **corporation, charter school, or accredited nonpublic**
 8 **school.**
- 9 **(C) Seventy-five thousand dollars (\$75,000) per year, in the**
 10 **case of a school corporation, charter school, or accredited**
 11 **nonpublic school that:**
 12 **(i) has an ADM of more than five thousand (5,000) and**
 13 **less than fifteen thousand one (15,001) students; and**
 14 **(ii) is not applying jointly with any other school**
 15 **corporation, charter school, or accredited nonpublic**
 16 **school.**
- 17 **(D) One hundred thousand dollars (\$100,000) per year, in**
 18 **the case of a school corporation, charter school, or**
 19 **accredited nonpublic school that:**
 20 **(i) has an ADM of more than fifteen thousand (15,000);**
 21 **and**
 22 **(ii) is not applying jointly with any other school**
 23 **corporation, charter school, or accredited nonpublic**
 24 **school.**
- 25 **(E) One hundred thousand dollars (\$100,000) per year, in**
 26 **the case of a coalition of schools applying jointly.**
- 27 **(c) Except as provided in subsection (d), the match requirement**
 28 **for a grant under this chapter is based on the ADM, as follows:**
 29 **(1) For a school corporation, charter school, or accredited**
 30 **nonpublic school with an ADM of less than five hundred one**
 31 **(501) students, the grant match must be twenty-five percent**
 32 **(25%) of the grant amount described in subsection (b).**
 33 **(2) For a school corporation, charter school, or accredited**
 34 **nonpublic school with an ADM of more than five hundred**
 35 **(500) and less than one thousand one (1,001) students, the**
 36 **grant match must be fifty percent (50%) of the grant amount**
 37 **described in subsection (b).**
 38 **(3) For a school corporation, charter school, or accredited**
 39 **nonpublic school with an ADM of more than one thousand**
 40 **(1,000) students or a coalition of schools applying jointly, the**
 41 **grant match must be one hundred percent (100%) of the**
 42 **grant amount described in subsection (b).**



1 (d) A school corporation, charter school, or accredited
2 nonpublic school may be eligible to receive a grant of up to:

3 (1) one hundred thousand dollars (\$100,000) if:

4 (A) the school corporation, charter school, or accredited
5 nonpublic school receives a grant match of one hundred
6 percent (100%) of the requested grant amount; and

7 (B) the board approves the grant request; or

8 (2) for a school corporation, charter school, or accredited
9 nonpublic school described in subsection (c)(1) or (c)(2), a
10 grant of up to fifty thousand dollars (\$50,000) if:

11 (A) the school corporation, charter school, or accredited
12 nonpublic school receives a grant match of fifty percent
13 (50%) of the requested grant amount; and

14 (B) the board approves the grant request.

15 ~~(e)~~ (e) A school corporation, ~~or~~ charter school, or accredited
16 nonpublic school may receive only one (1) matching grant under this
17 section each year.

18 ~~(f)~~ (f) The board may not award a grant to a school corporation, ~~or~~
19 charter school, or accredited nonpublic school under this chapter
20 unless the school corporation, ~~or~~ charter school, or accredited
21 nonpublic school is in a county that has a county school safety
22 commission, as described in IC 5-2-10.1-10.

23 SECTION 7. IC 10-21-1-5, AS AMENDED BY P.L.211-2018(ss),
24 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 UPON PASSAGE]: Sec. 5. (a) A school corporation, ~~or~~ charter school,
26 or accredited nonpublic school may annually apply to the board for
27 a matching grant from the fund for a program described in section 2(a)
28 of this chapter.

29 (b) The application must include the following:

30 (1) A concise description of the school corporation's, ~~or~~ charter
31 school's, or accredited nonpublic school's security needs.

32 (2) The estimated cost of the program to the school corporation,
33 ~~or~~ charter school, or accredited nonpublic school.

34 (3) The extent to which the school corporation, ~~or~~ charter school,
35 or accredited nonpublic school has access to and support from
36 a nearby law enforcement agency, if applicable.

37 (4) The ADM of the school corporation or charter school or the
38 equivalent for an accredited nonpublic school (or the combined
39 ADM of the coalition of schools applying jointly).

40 (5) Any other information required by the board.

41 (6) A statement whether the school corporation or charter school
42 has completed a local plan and has filed the plan with the county



1 school safety commission for the county in which the school
2 corporation or charter school is located.

3 (7) A statement whether the school corporation or charter school
4 (or coalition of public schools applying jointly) requests an
5 advance under IC 20-49-10 in addition to a matching grant under
6 this chapter.

7 **(c) Before July 1, 2021, each school corporation, charter school,**
8 **or accredited nonpublic school shall certify to the department of**
9 **homeland security that the school corporation, charter school, or**
10 **accredited nonpublic school has conducted a threat assessment for**
11 **each school building used by the school corporation, charter**
12 **school, or accredited nonpublic school before applying for a grant**
13 **under this chapter.**

14 SECTION 8. IC 10-21-1-6, AS ADDED BY P.L.172-2013,
15 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 UPON PASSAGE]: Sec. 6. A school corporation, ~~or~~ charter school, **or**
17 **accredited nonpublic school** that is awarded a matching grant under
18 this chapter is not required to repay or reimburse the board or fund the
19 amount of the matching grant.

20 SECTION 9. IC 20-26-5-38.5 IS ADDED TO THE INDIANA
21 CODE AS A NEW SECTION TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2019]: **Sec. 38.5. Notwithstanding any other**
23 **law, a public school, including a charter school, or an accredited**
24 **nonpublic school may not conduct or approve training or a drill for**
25 **a school employee or student of the school that includes as any part**
26 **of the training or drill the expelling of any type of projectile at a**
27 **school employee or student.**

28 SECTION 10. IC 20-30-5-17, AS AMENDED BY P.L.154-2018,
29 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 UPON PASSAGE]: Sec. 17. (a) Each school corporation shall make
31 available for inspection by the parent of a student any instructional
32 materials, including teachers' manuals, curricular materials, films or
33 other video materials, tapes, and other materials, used in connection
34 with:

- 35 (1) a personal analysis, an evaluation, or a survey described in
36 subsection (b); or
37 (2) instruction on human sexuality.

38 (b) A student shall not be required to participate in a personal
39 analysis, an evaluation, or a survey that is not directly related to
40 academic instruction and that reveals or attempts to affect the student's
41 attitudes, habits, traits, opinions, beliefs, or feelings concerning:

- 42 (1) political affiliations;



- 1 (2) religious beliefs or practices;
- 2 (3) mental or psychological conditions that may embarrass the
- 3 student or the student's family;
- 4 (4) sexual behavior or attitudes;
- 5 (5) illegal, antisocial, self-incriminating, or demeaning behavior;
- 6 (6) critical appraisals of other individuals with whom the student
- 7 has a close family relationship;
- 8 (7) legally recognized privileged or confidential relationships,
- 9 including a relationship with a lawyer, minister, or physician; or
- 10 (8) income (except as required by law to determine eligibility for
- 11 participation in a program or for receiving financial assistance
- 12 under a program);

13 without the prior consent of the student if the student is an adult or an
 14 emancipated minor or the prior written consent of the student's parent
 15 if the student is an unemancipated minor. A parental consent form for
 16 a personal analysis, an evaluation, or a survey described in this
 17 subsection shall accurately reflect the contents and nature of the
 18 personal analysis, evaluation, or survey.

19 (c) Before a school may provide a student with instruction on human
 20 sexuality, the school must provide the parent of the student or the
 21 student, if the student is an adult or an emancipated minor, with a
 22 written request for consent of instruction. A consent form provided to
 23 a parent of a student or a student under this subsection must accurately
 24 summarize the contents and nature of the instruction on human
 25 sexuality that will be provided to the student and indicate that a parent
 26 of a student or an adult or emancipated minor student has the right to
 27 review and inspect all materials related to the instruction on human
 28 sexuality. The written consent form may be sent in an electronic
 29 format. The parent of the student or the student, if the student is an
 30 adult or an emancipated minor, may return the consent form indicating
 31 that the parent of the student or the adult or emancipated student:

- 32 (1) consents to the instruction; or
- 33 (2) declines instruction.

34 If a student does not participate in the instruction on human sexuality,
 35 the school shall provide the student with alternative academic
 36 instruction during the same time frame that the instruction on human
 37 sexuality is provided.

38 (d) If the parent of the student or the student, if the student is an
 39 adult or an emancipated minor, does not respond to the written request
 40 provided by the school under subsection (c) within twenty-one (21)
 41 calendar days after receiving the request under subsection (c), the
 42 school shall provide the parent of the student, or the student, if the



1 student is an adult or an emancipated minor, a written notice requesting
 2 that the parent of the student, or the student, if the student is an adult
 3 or an emancipated minor, indicate, in a manner prescribed by the
 4 school, whether the parent of the student or the adult or emancipated
 5 student:

- 6 (1) consents to the instruction; or
- 7 (2) declines instruction.

8 A notice provided to a parent of a student or a student under this
 9 subsection must accurately summarize the contents and nature of the
 10 instruction on human sexuality that will be provided to the student and
 11 indicate that a parent of a student or an adult or emancipated minor
 12 student has the right to review and inspect all materials related to the
 13 instruction on human sexuality. The notice may be sent in an electronic
 14 format. If the school does not receive a response within ten (10) days
 15 after the notice, the student will receive the instruction on human
 16 sexuality unless the parent or the adult or emancipated student
 17 subsequently opts out of the instruction for the student.

18 (e) The department and the governing body shall give parents and
 19 students notice of their rights under this section.

20 (f) The governing body shall enforce this section.

21 **(g) A public school or an accredited nonpublic school described**
 22 **in IC 20-30-1-1(2) that violates this section is subject to**
 23 **IC 20-33-13-8 and IC 20-33-13-9.**

24 SECTION 11. IC 20-33-13 IS ADDED TO THE INDIANA CODE
 25 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 26 UPON PASSAGE]:

27 **Chapter 13. Protection of Privacy Rights of Students and**
 28 **Families**

29 **Sec. 1. As used in this chapter, "mental health assessment"**
 30 **means:**

- 31 **(1) a behavioral evaluation or survey;**
- 32 **(2) a personality examination or analysis;**
- 33 **(3) a mental health screening or survey;**
- 34 **(4) any assessment regarding interest inventories that would**
 35 **collect or elicit information about attitudes, habits, traits,**
 36 **opinions, beliefs, feelings, or dispositions, including:**
 - 37 **(A) multi-tiered system of supports;**
 - 38 **(B) positive behavior intervention and supports;**
 - 39 **(C) response to intervention; and**
 - 40 **(D) universal design for learning designed to affect**
 41 **behavioral, emotional, or attitudinal characteristics of an**
 42 **individual or group;**



- 1 (5) a social emotional screening, survey, assessment, or
2 evaluation;
- 3 (6) a social emotional wellness screening, survey, assessment,
4 or evaluation; or
- 5 (7) counseling or treatment, including prescribing medication.
- 6 **Sec. 2.** As used in this chapter, "mental health service" means
7 any social, emotional, or behavioral interventions, including:
- 8 (1) multitiered systems of support;
- 9 (2) positive behavior interventions and support;
- 10 (3) response to intervention; or
- 11 (4) universal design for learning designed to affect behavioral,
12 emotional, or attitudinal characteristics of an individual or
13 group.
- 14 **Sec. 3.** As used in this chapter, "psychiatric or psychological
15 examination or test" means a method of obtaining information,
16 including a group activity, that is designed to elicit information
17 about attitudes, habits, traits, opinions, beliefs, or feelings.
- 18 **Sec. 4.** As used in this chapter, "psychiatric or psychological
19 treatment" means an activity involving the planned, systematic use
20 of methods or techniques that are designed to affect behavioral,
21 emotional, or attitudinal characteristics of an individual or group.
- 22 **Sec. 5.** As used in this chapter, "school" means a charter school
23 or an accredited nonpublic school.
- 24 **Sec. 6.** As used in this chapter, "student education record"
25 means a record maintained by a school corporation or school in a
26 digital, paper, or other format that contains information directly
27 related to a student that includes, but is not limited to:
- 28 (1) personally identifiable information;
- 29 (2) medical or mental health information regarding the
30 student;
- 31 (3) academic information;
- 32 (4) career profile information;
- 33 (5) personality information;
- 34 (6) any disciplinary action information; and
- 35 (7) any other information gathered on the student.
- 36 **Sec. 7. (a)** A school corporation or school shall obtain prior
37 informed written consent from the parent of a student who:
- 38 (1) is less than eighteen (18) years of age; and
- 39 (2) is not emancipated;
- 40 before the student may participate in any medical health
41 assessment or services, mental health assessment, mental health
42 services, psychiatric or psychological examination or test, or



1 psychiatric or psychological treatment that is conducted in
 2 connection with the school corporation, school, a contractor of a
 3 school corporation or school, or any individual, agency, or entity
 4 that the student is referred to by a school corporation or school.

5 (b) Before obtaining the prior informed written consent of a
 6 parent as described in subsection (a), a school corporation or
 7 school shall provide the parent informed written notice describing
 8 in detail the medical health assessment or service, mental health
 9 assessment, mental health service, psychiatric or psychological
 10 examination or test, or psychiatric or psychological treatment,
 11 including:

- 12 (1) the purpose for the assessment, examination, test,
 13 treatment, or service;
- 14 (2) the provider or contractor providing the assessment,
 15 examination, test, treatment, or service;
- 16 (3) the date and time at which the assessment, examination,
 17 test, treatment, or service will take place; and
- 18 (4) the length of time the assessment, examination, test,
 19 treatment, or service may likely last.

20 Sec. 8. (a) For purposes of this section, a student is considered
 21 a student subject to a violation of this section if:

- 22 (1) a school corporation or school:
 - 23 (A) discloses a student education record, or any
 24 information in a student education record, in violation of
 25 federal law;
 - 26 (B) has the student participate in any medical health
 27 assessment or services, mental health assessment, mental
 28 health services, psychiatric or psychological examination
 29 or test, or psychiatric or psychological treatment that is
 30 conducted in connection with the school corporation,
 31 school, a contractor of a school corporation or school, or
 32 any individual, agency, or entity that the student is
 33 referred to by a school corporation or school without the
 34 informed written consent of the student's parent in
 35 violation of this chapter; or
 - 36 (C) provides health care to the student in violation of
 37 IC 16-36-1;
- 38 (2) a public school or accredited nonpublic school described
 39 in IC 20-30-1-1(2) violates IC 20-30-5-17 regarding the
 40 student; or
- 41 (3) a school corporation or charter school violates
 42 IC 20-34-3-21 regarding the student.



1 (b) If the attorney general determines:

2 (1) that a school corporation or school:

3 (A) discloses a student education record, or any
4 information in a student education record, in violation of
5 federal law;

6 (B) has a student participate in any medical health
7 assessment or services, mental health assessment, mental
8 health services, psychiatric or psychological examination
9 or test, or psychiatric or psychological treatment that is
10 conducted in connection with the school corporation,
11 school, a contractor of a school corporation or school, or
12 any individual, agency, or entity that the student is
13 referred to by a school corporation or school without the
14 informed written consent of the student's parent in
15 violation of this chapter; or

16 (C) provides health care to a student in violation of
17 IC 16-36-1;

18 (2) a public school or accredited nonpublic school described
19 in IC 20-30-1-1(2) violates IC 20-30-5-17; or

20 (3) a school corporation or charter school violates
21 IC 20-34-3-21;

22 the attorney general may assess a civil penalty against the school
23 corporation or school in an amount determined under subsection
24 (c). A civil penalty assessed under this subsection must be deposited
25 in the Indiana secured school fund established by IC 10-21-1-2.

26 (c) The amount of a civil penalty under subsection (b) is as
27 follows:

28 (1) For a first violation, at least one thousand dollars (\$1,000)
29 but less than five thousand dollars (\$5,000) for each student
30 who is the subject of a violation under this section.

31 (2) For a second violation, at least five thousand dollars
32 (\$5,000) but less than ten thousand dollars (\$10,000) for each
33 student who is the subject of a violation under this section.

34 (3) For any violation after a second violation, at least ten
35 thousand dollars (\$10,000) for each student who is the subject
36 of a violation under this section.

37 Sec. 9. (a) A parent of a student may bring a civil action against
38 a school corporation or school if the student is the subject of a
39 violation by the school corporation or school as described in section
40 8(a) of this chapter.

41 (b) A court may award the following to an individual who
42 prevails under subsection (a):



1 **(1) Court costs and reasonable attorney fees.**
 2 **(2) The greater of:**
 3 **(A) actual damages resulting from the violation; or**
 4 **(B) liquidated damages in an amount of five thousand**
 5 **dollars (\$5,000).**
 6 SECTION 12. IC 20-34-3-20, AS AMENDED BY P.L.103-2015,
 7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2019]: Sec. 20. (a) The governing body of a school
 9 corporation shall require each school in the governing body's
 10 jurisdiction to conduct periodic emergency preparedness drills during
 11 the school year in compliance with rules adopted under IC 4-22-2 by
 12 the state board.
 13 (b) Each school and attendance center shall conduct at least:
 14 (1) one (1) tornado preparedness drill; and
 15 (2) one (1) manmade occurrence disaster drill;
 16 during each semester.
 17 **(c) At least one (1) manmade occurrence disaster drill required**
 18 **under subsection (b) must be an active shooter drill and must be**
 19 **conducted within ninety (90) calendar days after the beginning of**
 20 **the semester.**
 21 **(d) Each:**
 22 **(1) accredited nonpublic school; and**
 23 **(2) charter school;**
 24 **must conduct at least one (1) active shooter drill during each school**
 25 **year.**
 26 ~~(e)~~ **(e)** Notwithstanding rules established by the state fire marshal
 27 under IC 12-17-12-19, a drill conducted under subsection (b) may be
 28 conducted instead of a periodic or monthly fire evacuation drill
 29 requirement established by the state fire marshal. However, a drill
 30 conducted under subsection (b) may not be made:
 31 (1) instead of more than two (2) periodic or monthly fire
 32 evacuation drills in a particular school semester; and
 33 (2) in two (2) consecutive months.
 34 ~~(f)~~ **(f)** The governing body of a school corporation may direct
 35 schools to conduct emergency preparedness drills in addition to those
 36 required under subsection (b).
 37 ~~(g)~~ **(g)** The governing body of a school corporation shall require
 38 each principal to file a certified statement that all drills have been
 39 conducted as required under this section.
 40 SECTION 13. IC 20-34-3-21, AS ADDED BY P.L.185-2015,
 41 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 UPON PASSAGE]: Sec. 21. (a) ~~Before July 1, 2016,~~ Each school



1 corporation ~~may~~ **shall** enter into a memorandum of understanding with
 2 a community mental health center established under IC 12-29-2 or a
 3 provider certified or licensed by the division of mental health and
 4 addiction to establish conditions or terms for referring students of the
 5 school corporation to the mental health care provider or community
 6 mental health center for services.

7 (b) A school corporation may not refer a student to a mental health
 8 care provider or a community mental health center for services unless
 9 the school corporation has received the written consent of the student's
 10 parent or guardian.

11 (c) If a school corporation refers a student to a mental health care
 12 provider, the school corporation may note the referral in the student's
 13 cumulative record but may not include any possible diagnosis or
 14 information concerning the student's mental health other than any
 15 medication that the student takes for the student's mental health. A
 16 student record that contains medical information must be kept
 17 confidential.

18 (d) A school counselor or other employee of a school corporation
 19 may not diagnose a student as having a mental health condition unless
 20 the individual's scope of practice includes diagnosing a mental health
 21 condition.

22 **(e) A school corporation that violates this section is subject to**
 23 **IC 20-33-13-8 and IC 20-33-13-9.**

24 SECTION 14. IC 34-30-2-10.9 IS ADDED TO THE INDIANA
 25 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2019]: **Sec. 10.9. IC 5-2-10.1-14 (Concerning**
 27 **school corporations, schools, and other persons and entities**
 28 **regarding the design, development, or implementation of school**
 29 **safety plans).**

30 SECTION 15. IC 34-30-28-1, AS ADDED BY P.L.41-2014,
 31 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 UPON PASSAGE]: Sec. 1. A school, school employee, or school board
 33 is not liable for civil damages as a result of:

34 (1) an injury to a child or family members of the child if the injury
 35 is a result of a student's mental health issue that has not been
 36 disclosed to the school by the parents or guardian; or

37 (2) any referrals the school made or services the school offered
 38 concerning evaluations or treatment of the student's health,
 39 including mental health.

40 **However, a school, school employee, or school board is not immune**
 41 **from civil damages under subdivision (2) unless, except in the case**
 42 **of a life-threatening emergency or a medical emergency in which**



1 **the student suffered a severe injury, the school, school employee,**
2 **or school board received prior written consent from the student, if**
3 **the student is an adult or an emancipated minor, or the student's**
4 **parent, if the student is an unemancipated minor.**

5 **SECTION 16. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred House Bill 1004, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, line 32, delete "thirty (30)" and insert "**ninety (90)**".

Page 8, line 26, delete "an agreement" and insert "**a memorandum of understanding for referral**".

Page 8, line 28, after "students." insert "**A memorandum of understanding for referral shall be developed by the division of mental health and addiction.**".

and when so amended that said bill do pass.

(Reference is to HB 1004 as introduced.)

FRYE R

Committee Vote: yeas 12, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1004 be amended to read as follows:

Page 4, line 35, delete "The" and insert "**Except as provided in subsection (d), the**".

Page 5, line 40, delete "The" and insert "**Except as provided in subsection (d), the**".

Page 6, between lines 13 and 14, begin a new paragraph and insert: "**(d) A school corporation, charter school, or accredited nonpublic school may be eligible to receive a grant of up to:**

(1) one hundred thousand dollars (\$100,000) if:

(A) the school corporation, charter school, or accredited nonpublic school receives a grant match of one hundred percent (100%) of the requested grant amount; and

(B) the board approves the grant request; or

(2) for a school corporation, charter school, or accredited nonpublic school described subsection (c)(1) or (c)(2), a grant of up to fifty thousand dollars (\$50,000) if:

(A) the school corporation, charter school, or accredited nonpublic school receives a grant match of fifty percent

EH 1004—LS 6969/DI 116



**(50%) of the requested grant amount; and
(B) the board approves the grant request."**

Page 6, line 14, delete "(d)" and insert "(e)".

Page 6, line 17, delete "(e)" and insert "(f)".

Page 7, line 32, after "(90)" insert "calendar".

Page 8, delete lines 11 through 20, begin a new paragraph and insert:

"SECTION 9. IC 20-34-3-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 24. (a) As used in this section, "school" means any of the following:**

(1) A school corporation.

(2) A charter school.

(3) A nonpublic school with at least one (1) employee.

(b) Beginning after July 1, 2019, or each year that the federal Centers for Disease Control and Prevention Youth Risk BEHAVIOR Survey or a successor survey is administered by the state department of health, the state department of health shall work with each school to provide students in grades 9 through 12 with the opportunity to participate in the survey. A school is not required to participate in the survey. If a school decides not to participate in the survey, the school shall provide written notification to the state department of health of the school's decision not to participate.

(c) This subsection applies to the notification that is required to be provided by the state department of health. Before a school may provide a student with the opportunity to participate in the survey, the state department of health, in consultation with the school, shall provide written notification to the parent of the student or the student, if the student is an adult or an emancipated minor, of the student's participation in the survey. The notification described in this subsection must provide a student's parent or the student, if the student is an adult or an emancipated minor, with the opportunity to opt the student out of participation in the survey. The state department of health shall provide written notification to the school if the student's parent or the student, if the student is an adult or an emancipated minor, opts the student out of participation in the survey. A school may not be required to incur any cost to distribute the written notification.

(d) This subsection applies to the notification that is required to be provided by the school. In addition to the notification provided by the state department of health under subsection (c), a school



must provide the parent of the student or the student, if the student is an adult or an emancipated minor, a notice about the survey either by telecommunication or electronic communication. A notice provided to a parent of a student or a student, if the student is an adult or emancipated minor, under this subsection must provide information that:

- (1) informs the parent or the student, if the student is an adult or emancipated minor, where he or she can find more information about the survey; and**
- (2) entitles the student's parent or the student, if the student is an adult or an emancipated minor, with the opportunity to opt the student out of participation in the survey."**

(Reference is to HB 1004 as printed January 17, 2019.)

Representative Lehman

HOUSE MOTION

Mr. Speaker: I move that House Bill 1004 be amended to read as follows:

Page 2, between lines 22 and 23, begin a new line block indented and insert:

"(8) Provide grants for school based mental health services to students or form partnerships with mental health providers to provide school based mental health services to students.

(9) Provide grants for school based social emotional wellness services to students or form partnerships with social emotional wellness providers to provide school based social emotional wellness services."

Page 3, line 13, after "school;" strike "or".

Page 3, line 16, delete "." and insert ";".

Page 3, between lines 16 and 17, begin a new line block indented and insert:

"(4) provide school based mental health services to students or form partnerships with mental health providers to provide school based mental health services to students; or

(5) provide school based social emotional wellness services to students or form partnerships with social emotional wellness providers to provide school based social emotional wellness services."

Page 4, line 24, after "assessment," insert "provide school based



mental health services to students or form partnerships with mental health providers to provide school based mental health services to students, provide school based social emotional wellness services to students or form partnerships with social emotional wellness providers to provide school based social emotional wellness services,".

Page 8, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 10. IC 20-49-10-4, AS ADDED BY P.L.211-2018(ss), SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) The school corporation and charter school safety advance program is established. The purpose of the program is to make advances to school corporations or charter schools (or one (1) or more coalitions of public schools applying jointly) for:

- (1) equipment purchases or capital improvements necessary to improve school security;
- (2) the provision of school based mental health services to students or the formation of partnerships with mental health providers as described in section 5(a)(2) of this chapter; or**
- (3) the provision of school based social emotional wellness services to students or the formation of partnerships with social emotional wellness providers as described in section 5(a)(3) of this chapter.**

(b) The state board, in consultation with the secured school safety board established by IC 10-21-1-3, shall administer the program.

(c) The total amount of advances that the state board may make under this chapter during the state biennium beginning July 1, 2017, and ending June 30, 2019, may not exceed thirty-five million dollars (\$35,000,000).

SECTION 11. IC 20-49-10-5, AS ADDED BY P.L.211-2018(ss), SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) Advances made under this chapter may be used to:

- (1) purchase equipment or make capital improvements needed to:
 - ~~(1)~~ (A) restrict access to schools;
 - ~~(2)~~ (B) expedite the notification of first responders; or
 - ~~(3)~~ (C) improve school security;
- (2) provide school based mental health services to students or form partnerships with mental health providers to provide school based mental health services to students; or**
- (3) provide school based social emotional wellness services to students or form partnerships with social emotional wellness providers to provide school based social emotional wellness**



services.

(b) The maximum amount of an advance that a school corporation or charter school may receive under this chapter may not exceed five hundred thousand dollars (\$500,000).

(c) The maximum amount of the advance that the state board may approve under section 6(c) of this chapter is the lesser of:

- (1) the maximum amount of an advance that may be awarded as established by subsection (b); or
- (2) the amount needed to cover costs approved by the secured school safety board that are in excess of the amount awarded by the secured school safety board under IC 10-21-1-4 and the amount committed as a match by the school corporation or charter school (or coalition of public schools filing jointly) that applied for the grant under IC 10-21-1-5."

Renumber all SECTIONS consecutively.

(Reference is to HB 1004 as printed January 17, 2019.)

PFAFF

COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred House Bill No. 1004, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective date in SECTION 6 with "[EFFECTIVE UPON PASSAGE]".

Page 2, delete lines 23 through 29.

Page 2, between lines 40 and 41, begin a new paragraph and insert: "SECTION 2. IC 5-2-10.1-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 14. (a) As used in this section, "school" means the following:**

(1) A public school, including a charter school (as defined in IC 20-24-1-4).

(2) An accredited nonpublic school.

(b) As used in this section, "school corporation" has the meaning set forth in IC 20-18-2-16(a).

(c) A school corporation and a school are immune from civil



liability for any injury or loss that results from an act or omission in the design, development, or implementation of a safety plan, or any part of a safety plan, unless the act or omission constitutes gross negligence or willful, wanton, or intentional misconduct.

(d) A person or entity that is employed by, volunteers with, or contracts for services with a school corporation or school regarding the design, development, or implementation of a safety plan, or any part of a safety plan, is immune from civil liability for any injury or loss that results from an act or omission in the design, development, or implementation of the safety plan, or any part of the safety plan, unless the act or omission constitutes gross negligence or willful, wanton, or intentional misconduct."

Page 3, line 23, after "responders;" insert "**or**".

Page 3, line 26, delete "students; or" and insert "**students.**".

Page 3, delete lines 27 through 30.

Page 3, between lines 36 and 37, begin a new line block indented and insert:

"(3) civil penalties assessed by the attorney general under IC 20-33-13-8;"

Page 3, line 37, strike "(3)" and insert "**(4)**".

Page 3, line 38, strike "(4)" and insert "**(5)**".

Page 4, line 41, delete "provide school based social".

Page 4, delete line 42.

Page 5, delete line 1.

Page 5, line 2, delete "emotional wellness services,".

Page 6, line 41, after "described" insert "**in**".

Page 8, between lines 9 and 10, begin a new paragraph and insert:
"SECTION 9. IC 20-26-5-38.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 38.5. Notwithstanding any other law, a public school, including a charter school, or an accredited nonpublic school may not conduct or approve training or a drill for a school employee or student of the school that includes as any part of the training or drill the expelling of any type of projectile at a school employee or student.

SECTION 10. IC 20-30-5-17, AS AMENDED BY P.L.154-2018, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) Each school corporation shall make available for inspection by the parent of a student any instructional materials, including teachers' manuals, curricular materials, films or other video materials, tapes, and other materials, used in connection with:



- (1) a personal analysis, an evaluation, or a survey described in subsection (b); or
- (2) instruction on human sexuality.

(b) A student shall not be required to participate in a personal analysis, an evaluation, or a survey that is not directly related to academic instruction and that reveals or attempts to affect the student's attitudes, habits, traits, opinions, beliefs, or feelings concerning:

- (1) political affiliations;
- (2) religious beliefs or practices;
- (3) mental or psychological conditions that may embarrass the student or the student's family;
- (4) sexual behavior or attitudes;
- (5) illegal, antisocial, self-incriminating, or demeaning behavior;
- (6) critical appraisals of other individuals with whom the student has a close family relationship;
- (7) legally recognized privileged or confidential relationships, including a relationship with a lawyer, minister, or physician; or
- (8) income (except as required by law to determine eligibility for participation in a program or for receiving financial assistance under a program);

without the prior consent of the student if the student is an adult or an emancipated minor or the prior written consent of the student's parent if the student is an unemancipated minor. A parental consent form for a personal analysis, an evaluation, or a survey described in this subsection shall accurately reflect the contents and nature of the personal analysis, evaluation, or survey.

(c) Before a school may provide a student with instruction on human sexuality, the school must provide the parent of the student or the student, if the student is an adult or an emancipated minor, with a written request for consent of instruction. A consent form provided to a parent of a student or a student under this subsection must accurately summarize the contents and nature of the instruction on human sexuality that will be provided to the student and indicate that a parent of a student or an adult or emancipated minor student has the right to review and inspect all materials related to the instruction on human sexuality. The written consent form may be sent in an electronic format. The parent of the student or the student, if the student is an adult or an emancipated minor, may return the consent form indicating that the parent of the student or the adult or emancipated student:

- (1) consents to the instruction; or
- (2) declines instruction.

If a student does not participate in the instruction on human sexuality,



the school shall provide the student with alternative academic instruction during the same time frame that the instruction on human sexuality is provided.

(d) If the parent of the student or the student, if the student is an adult or an emancipated minor, does not respond to the written request provided by the school under subsection (c) within twenty-one (21) calendar days after receiving the request under subsection (c), the school shall provide the parent of the student, or the student, if the student is an adult or an emancipated minor, a written notice requesting that the parent of the student, or the student, if the student is an adult or an emancipated minor, indicate, in a manner prescribed by the school, whether the parent of the student or the adult or emancipated student:

- (1) consents to the instruction; or
- (2) declines instruction.

A notice provided to a parent of a student or a student under this subsection must accurately summarize the contents and nature of the instruction on human sexuality that will be provided to the student and indicate that a parent of a student or an adult or emancipated minor student has the right to review and inspect all materials related to the instruction on human sexuality. The notice may be sent in an electronic format. If the school does not receive a response within ten (10) days after the notice, the student will receive the instruction on human sexuality unless the parent or the adult or emancipated student subsequently opts out of the instruction for the student.

(e) The department and the governing body shall give parents and students notice of their rights under this section.

(f) The governing body shall enforce this section.

(g) A public school or an accredited nonpublic school described in IC 20-30-1-1(2) that violates this section is subject to IC 20-33-13-8 and IC 20-33-13-9.

SECTION 11. IC 20-33-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 13. Protection of Privacy Rights of Students and Families

Sec. 1. As used in this chapter, "mental health assessment" means:

- (1) a behavioral evaluation or survey;**
- (2) a personality examination or analysis;**
- (3) a mental health screening or survey;**
- (4) any assessment regarding interest inventories that would**



collect or elicit information about attitudes, habits, traits, opinions, beliefs, feelings, or dispositions, including:

- (A) multi-tiered system of supports;
 - (B) positive behavior intervention and supports;
 - (C) response to intervention; and
 - (D) universal design for learning designed to affect behavioral, emotional, or attitudinal characteristics of an individual or group;
- (5) a social emotional screening, survey, assessment, or evaluation;
- (6) a social emotional wellness screening, survey, assessment, or evaluation; or
- (7) counseling or treatment, including prescribing medication.

Sec. 2. As used in this chapter, "mental health service" means any social, emotional, or behavioral interventions, including:

- (1) multitiered systems of support;
- (2) positive behavior interventions and support;
- (3) response to intervention; or
- (4) universal design for learning designed to affect behavioral, emotional, or attitudinal characteristics of an individual or group.

Sec. 3. As used in this chapter, "psychiatric or psychological examination or test" means a method of obtaining information, including a group activity, that is designed to elicit information about attitudes, habits, traits, opinions, beliefs, or feelings.

Sec. 4. As used in this chapter, "psychiatric or psychological treatment" means an activity involving the planned, systematic use of methods or techniques that are designed to affect behavioral, emotional, or attitudinal characteristics of an individual or group.

Sec. 5. As used in this chapter, "school" means a charter school or an accredited nonpublic school.

Sec. 6. As used in this chapter, "student education record" means a record maintained by a school corporation or school in a digital, paper, or other format that contains information directly related to a student that includes, but is not limited to:

- (1) personally identifiable information;
- (2) medical or mental health information regarding the student;
- (3) academic information;
- (4) career profile information;
- (5) personality information;
- (6) any disciplinary action information; and



(7) any other information gathered on the student.

Sec. 7. (a) A school corporation or school shall obtain prior informed written consent from the parent of a student who:

- (1) is less than eighteen (18) years of age; and
- (2) is not emancipated;

before the student may participate in any medical health assessment or services, mental health assessment, mental health services, psychiatric or psychological examination or test, or psychiatric or psychological treatment that is conducted in connection with the school corporation, school, a contractor of a school corporation or school, or any individual, agency, or entity that the student is referred to by a school corporation or school.

(b) Before obtaining the prior informed written consent of a parent as described in subsection (a), a school corporation or school shall provide the parent informed written notice describing in detail the medical health assessment or service, mental health assessment, mental health service, psychiatric or psychological examination or test, or psychiatric or psychological treatment, including:

- (1) the purpose for the assessment, examination, test, treatment, or service;
- (2) the provider or contractor providing the assessment, examination, test, treatment, or service;
- (3) the date and time at which the assessment, examination, test, treatment, or service will take place; and
- (4) the length of time the assessment, examination, test, treatment, or service may likely last.

Sec. 8. (a) For purposes of this section, a student is considered a student subject to a violation of this section if:

- (1) a school corporation or school:
 - (A) discloses a student education record, or any information in a student education record, in violation of federal law;
 - (B) has the student participate in any medical health assessment or services, mental health assessment, mental health services, psychiatric or psychological examination or test, or psychiatric or psychological treatment that is conducted in connection with the school corporation, school, a contractor of a school corporation or school, or any individual, agency, or entity that the student is referred to by a school corporation or school without the informed written consent of the student's parent in



- violation of this chapter; or
- (C) provides health care to the student in violation of IC 16-36-1;
- (2) a public school or accredited nonpublic school described in IC 20-30-1-1(2) violates IC 20-30-5-17 regarding the student; or
- (3) a school corporation or charter school violates IC 20-34-3-21 regarding the student.
- (b) If the attorney general determines:
- (1) that a school corporation or school:
- (A) discloses a student education record, or any information in a student education record, in violation of federal law;
- (B) has a student participate in any medical health assessment or services, mental health assessment, mental health services, psychiatric or psychological examination or test, or psychiatric or psychological treatment that is conducted in connection with the school corporation, school, a contractor of a school corporation or school, or any individual, agency, or entity that the student is referred to by a school corporation or school without the informed written consent of the student's parent in violation of this chapter; or
- (C) provides health care to a student in violation of IC 16-36-1;
- (2) a public school or accredited nonpublic school described in IC 20-30-1-1(2) violates IC 20-30-5-17; or
- (3) a school corporation or charter school violates IC 20-34-3-21;

the attorney general may assess a civil penalty against the school corporation or school in an amount determined under subsection (c). A civil penalty assessed under this subsection must be deposited in the Indiana secured school fund established by IC 10-21-1-2.

(c) The amount of a civil penalty under subsection (b) is as follows:

- (1) For a first violation, at least one thousand dollars (\$1,000) but less than five thousand dollars (\$5,000) for each student who is the subject of a violation under this section.
- (2) For a second violation, at least five thousand dollars (\$5,000) but less than ten thousand dollars (\$10,000) for each student who is the subject of a violation under this section.
- (3) For any violation after a second violation, at least ten



thousand dollars (\$10,000) for each student who is the subject of a violation under this section.

Sec. 9. (a) A parent of a student may bring a civil action against a school corporation or school if the student is the subject of a violation by the school corporation or school as described in section 8(a) of this chapter.

(b) A court may award the following to an individual who prevails under subsection (a):

(1) Court costs and reasonable attorney fees.

(2) The greater of:

(A) actual damages resulting from the violation; or

(B) liquidated damages in an amount of five thousand dollars (\$5,000)."

Page 9, delete lines 2 through 42, begin a new paragraph and insert:
 "SECTION 13. IC 20-34-3-21, AS ADDED BY P.L.185-2015, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) ~~Before July 1, 2016,~~ Each school corporation ~~may~~ **shall** enter into a memorandum of understanding with a community mental health center established under IC 12-29-2 or a provider certified or licensed by the division of mental health and addiction to establish conditions or terms for referring students of the school corporation to the mental health care provider or community mental health center for services.

(b) A school corporation may not refer a student to a mental health care provider or a community mental health center for services unless the school corporation has received the written consent of the student's parent or guardian.

(c) If a school corporation refers a student to a mental health care provider, the school corporation may note the referral in the student's cumulative record but may not include any possible diagnosis or information concerning the student's mental health other than any medication that the student takes for the student's mental health. A student record that contains medical information must be kept confidential.

(d) A school counselor or other employee of a school corporation may not diagnose a student as having a mental health condition unless the individual's scope of practice includes diagnosing a mental health condition.

(e) A school corporation that violates this section is subject to IC 20-33-13-8 and IC 20-33-13-9.

SECTION 14. IC 34-30-2-10.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 2019]: **Sec. 10.9. IC 5-2-10.1-14 (Concerning school corporations, schools, and other persons and entities regarding the design, development, or implementation of school safety plans).**

SECTION 15. IC 34-30-28-1, AS ADDED BY P.L.41-2014, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A school, school employee, or school board is not liable for civil damages as a result of:

- (1) an injury to a child or family members of the child if the injury is a result of a student's mental health issue that has not been disclosed to the school by the parents or guardian; or
- (2) any referrals the school made or services the school offered concerning evaluations or treatment of the student's health, including mental health.

However, a school, school employee, or school board is not immune from civil damages under subdivision (2) unless, except in the case of a life-threatening emergency or a medical emergency in which the student suffered a severe injury, the school, school employee, or school board received prior written consent from the student, if the student is an adult or an emancipated minor, or the student's parent, if the student is an unemancipated minor."

Delete page 10.

Page 11, delete lines 1 through 26.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to HB 1004 as reprinted January 25, 2019.)

RAATZ, Chairperson

Committee Vote: Yeas 9, Nays 0.

